

U.S. Patent Application Serial No. 10/538,912
Amendment filed May 7, 2009
Reply to OA dated March 24, 2009

REMARKS

Claims 1, 7 and 9 are pending in this application. Claims 1, 7 and 9 are amended herein. Upon entry of this amendment, claims 1, 7 and 9 will be pending. Entry of this amendment and reconsideration of the rejections are respectfully requested.

No new matter has been introduced by this Amendment. Support for the amendments to the claims is discussed below.

Claims 1, 7, and 9 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. (Office action page 2)

a) The Examiner states that the claims are vague because they lack deposit accession numbers to clearly identify the antibody/hybridoma.

The rejection is overcome by the amendments to claims 1 and 9. The claims have been amended to specifically identify antibody Trk49 as “produced by a hybridoma deposited under the Budapest Treaty at National Institute of Advanced Industrial Science and Technology, International Patent Organism Depository, under the accession number of FERM BP-8249” and antibody Trk62 as “produced by a hybridoma deposited under the Budapest Treaty at National Institute of Advanced Industrial Science and Technology, International Patent Organism Depository, under the accession number of FERM BP-7890.”

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Applicant has provided documentation of the deposits of these hybridomas with the Amendment filed February 3, 2009.

b) The Examiner states that in claim 7, it is not clear which of the carriers is being limited.

The rejection is overcome by the amendments to claims 1 and 7. Claim 1 has been amended as suggested by the Examiner, to distinguish between the "first carrier" and the "second carrier." Claim 7 has been amended correspondingly to recite: "the carrier on which at least the first antibody is adsorbed"

Claim 9 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 10-13 of U.S. Patent No. 7,074,903. (Office action page 4)

The rejection is obviated by the filing of a terminal disclaimer over U.S. Patent No. 7,074,903. The terminal disclaimer papers are filed concurrently with this Amendment.

If, for any reason, it is felt that this application is not now in condition for allowance, the Examiner is requested to contact the applicants' undersigned agent at the telephone number indicated below to arrange for an interview to expedite the disposition of this case.

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In the event that this paper is not timely filed, the applicants respectfully petition for an appropriate extension of time. Please charge any fees for such an extension of time and any other fees which may be due with respect to this paper, to Deposit Account No. 01-2340.

Respectfully submitted,

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PATENT & TRADEMARK OFFICE

Enclosure: Terminal Disclaimer

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